HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

WRIT APPEAL NO. 1073 OF 2006

Between:

S.A. Rafeeq & another

..... Appellants

AND

Station House Officer,
Mir Chowk Police Station,
Hyderabad & others

.....Respondents

:: J U D G M E N T::

Counsel for the appellants : Shri Vedula Venkata Ramana

Dated: 23.10.2006

Per G.S.SINGHVI, CJ

Having failed to persuade the learned Single Judge to quash F.I.R.No.103 of 2004 registered at Police Station Mir Chowk, Hyderabad for offences under Sections 468, 420, 471 read with Section 34 of Indian Penal Code, the appellants have preferred this appeal under Clause 15 of the Letters Patent.

The Facts:

Non-petitioner No.2 filed a complaint under Section 200 of the Code of Criminal Procedure in the Court of XVIth Metropolitan Magistrate, Hyderabad with the following assertions:

(1) His father late Mohd. Hussain died in 1996 leaving behind four sons and three daughters and a vast estate including premises bearing No.19-2-227/4, 19-2-227/3 and 19-2-227/2 admeasuring 719.00 square yards, 100 square yards, 100 square yards respectively situated at Bahadarpura, Hyderabad.

(2) His three sisters filed suit for injunction in the Court of VIIth Senior Civil Judge, which was registered as O.S.No.2296 of 2003. They also applied for interim injunction and the trial Court passed an order of status quo against four sons of late Mohd. Hussain.

(3) Petitioner No.1 is the son of a notorious land grabber. He along with petitioner No.2, who is carrying land grabbing activities under the name and style of Lucky Real Estate

and Developer at Bahadarpura, procured a fake stamp paper and got executed an agreement of sale in respect of the three properties through his younger brothers.

(4) Immediately thereafter, petitioner No.1 filed civil suit in the Court of VIIth Senior Civil Judge, City Civil Court, Hyderabad alleging that one Mohammed Saleem provided fake stamp paper to facilitate execution of the agreement of sale.

(5) By executing agreement of sale on the basis of fake stamp paper, petitioner Nos. 1 and 2 and his three brothers have committed offence of forgery of valuable security for the purpose of cheating and fraud.

The complaint of non-petitioner No.2 was forwarded to Police Station, Mir Chowk for enquiry and report under Section 156(3) of the Code of Criminal Procedure. Thereupon, F.I.R.No.103 of 2004 was registered under Sections 468, 420 and 471 read with 34 of the Indian Penal Code and investigation was entrusted to Shri G. Shyam Sundar. In the final report prepared by him, the investigating officer opined that the case is of civil nature and the complainant should be left free to avail remedy in the civil Court. However, Additional Director General of Police, Crime Investigation Department, Hyderabad vide his letter dated 11.08.2004 referred the matter for further investigation and verification of the genuineness of stamp paper on which the agreement of sale was executed. At that stage, the appellants filed writ petition under Article 226 of the Constitution of India for quashing the F.I.R. The same was registered as Writ Petition

No.18651 of 2004. In the affidavit filed by appellant No.1 – S.A. Rafeeq, detailed reference was made to the civil litigation instituted by the writ petitioners in the Court of VIIth Senior Civil Judge, City Civil Court, Hyderabad (O.S.No.2415 of 2003), order of injunction dated 19.08.2004 passed by the trial Court and it was pleaded that the civil dispute cannot be converted into a criminal case. He further pleaded that the complaint had been filed with an ulterior motive to coerce them to withdraw from the agreement of sale.

In the counters filed by respondent Nos. 1 and 2, it was pleaded that the allegation levelled against the petitioners of having procured fake stamp papers for the purpose of execution of the agreement of sale was extremely serious and the learned XVIth Metropolitan Magistrate did not commit any illegality by ordering investigation under Section 156(3). It was further pleaded that the final report prepared by the Sub-Inspector, Shri G. Shyam Sundar was not conclusive and the Additional Director General of Police had reasonable grounds for ordering further investigation.

The learned Single Judge held that the complaint made by non-petitioner No.2 (respondent No.2 herein) certainly constitutes information relating to the commission of a cognizance offence and, therefore, there was no justification to quash the F.I.R. registered in compliance of the direction given by the Court of competent jurisdiction. The learned Single Judge then took notice of the fact that on account of the interim order passed by the Court in October, 2004, the investigation could not take place and directed that investigation be completed and final report be filed

within 60 days. This is evinced from the following extracts of the impugned order:

> ".....As on the account of the interim order granted in this case in October, 2004 and on the basis of a wholly misconceived pleading in the writ petition that the final report had been filed by the first respondent to the effect that the complaint of the second respondent is civil in nature, the investigation was stalled, this Court considers it appropriate to direct the first respondent to expeditiously continue with the investigation into F.I.R.No.103 of 2004, on day to day basis, send signatures of the petitioners on the agreement of sale allegedly executed by the petitioner and his three brothers dated 08-10-2002 for forensic examination for comparison of the signatures and for verification of the genuineness of the stamps to the appropriate forensic agency; correspond with such forensic agency on a weekly basis to expedite receipt of the forensic opinion of the expert agency; and meanwhile to proceed with the other aspects of the investigation and to file a final report within a period of 60 days from the date of receipt of a copy of this order. If any further time be required for any just and explainable cause, the first respondent is at liberty to approach this Court for extension of time by duly stating the reasons why the investigation could not be complied within time stipulated in this order."

Shri V. Venkata Ramana, learned counsel for the appellants argued that the complaint filed by respondent No.2 in the Court of XVIth Metropolitan Magistrate, Hyderabad, who referred the matter for investigation under Section 156(3) of Code of Criminal Procedure, does not disclose commission of any criminal offence by the appellants and the learned Single Judge committed serious error by refusing to quash the F.I.R. Learned counsel laid

considerable emphasis on the fact that the investigating officer had opined for closure of the case, and argued that the proceedings of FIR No.103 of 2004 should be quashed.

In our opinion, there is no merit in the contention of the learned counsel. In the suit filed by him in the Court of VIIth Senior Civil Judge, City Civil Court, Hyderabad, appellant No.1 has prayed for restraining respondent No.2 from interfering with his possession and enjoyment of the disputed property. In I.A.No.1496 of 2003 filed by him, the concerned Court passed an ex parte order of injunction. I.A.No.725 of 2004 filed by respondent No.2 for vacating ad interim order was dismissed by the trial Court on 19.02.2004 with the observation that the plaintiff had a sound cause and there was no valid ground to ignore the sale deed executed by his brothers and allow him to interfere with the plaintiff's possession. As against this, in his complaint, respondent No.2 has alleged that the appellants procured fake stamp paper from one Mohd. Saleem and manipulated the execution of agreement of sale. The question whether the stamp paper on which the agreement of sale was executed is fake or not cannot be gone into by the civil Court. In his report, the investigating officer did not properly direct his attention to the issue of fake character of the stamp paper. This is the reason why the Additional Director General of Police ordered further investigation. If it is found that the stamp paper is fake, then the person responsible for procuring the same and getting the sale agreement executed will render himself liable to be punished. Therefore, at this stage, it is not possible to record a finding that

the complaint filed by respondent No.2 is frivolous or vexatious or is an abuse of the process of law or that the same does not disclose commission of any cognizable offence.

In Writ Appeal No.1664 of 2003 – **Commissioner of Prohibition & Excise, Andhra Pradesh, Hyderabad and others v. Shri Balaji Traders, Hyderabad** decided on 27.07.2006, a Division Bench of this Court, after noticing the ratio of the judgments of the Supreme Court in **R.P. Kapur v. State of Punjab**[1], **State of Haryana v. Bhajanlal**[2], **State of Bihar v. J.A.C. Saldanha**[3], **State of West Bengal v. Swapan Kumar Guha**[4], **State of Bihar v. P.P. Sharma**[5], **State of Maharashtra v. Ishwar Piraji Kalpatri**[6], **State of Karnataka v. M. Devendrappa**[7], **A.V. Mohan Rao v. M. Kishan Rao**[8], **State of Bihar v. Murad Ali Khan**[9], and **State of Orissa v. Saroj Kumar Sahoo**[10] laid down the following proposition:

> ".....in exercise of its powers under Article 226 of the Constitution or Section 482 of Cr.P.C., the High Court should be extremely slow to interfere with the investigation and/or trial of criminal cases and should not stall the investigation and/or prosecution except when it is convinced beyond any manner of doubt that the FIR does not disclose commission of any offence or that the allegations contained in the FIR do not constitute any cognizable offence or that the prosecution is barred by law. In dealing with such cases, the High Court has to bear in mind that judicial intervention at the threshold of the legal process initiated against a person accused of committing

offence is highly detrimental to the larger public and societal interest. The people and the society have the right to see that those committing offences either against an individual or the society are expeditiously brought to trial and, if found guilty, adequately punished. Therefore, while deciding a petition filed under Article 226 of the Constitution or Section 482 Cr.P.C., for quashing the FIR or complaint or restraining the competent authority from investigating the allegations contained in the FIR or complaint or for stalling the trial of the case, the High Court should be extremely careful and circumspect. If the allegations contained in the FIR or complaint discloses commission of some crime, then the High Court must keep its hands of and allow the investigating agency to complete the investigation without any fetter. The High Court should not go into the merits and demerits of the allegations simply because the petitioner alleges malus animus against the author of the FIR or the complainant. The High Court must also refrain from making imaginary journey in the realm of possible harassment which may be caused to the petitioner on account of investigation of the FIR or complaint. Such a course will result in miscarriage of justice and would encourage those accused of committing crimes to repeat the same. Interim orders passed by the High Court in such matters, as a matter of course, have great adverse impact on the society. Those accused of committing crimes get emboldened and majority of citizens are forced to think that the judicial process can be used and abused by the law breakers to their advantage."

By applying the above-noted proposition to the case in hand, we hold that the learned Single Judge did not commit any

error by refusing to quash F.I.R.No.103 of 2004 registered at Police Station Mir Chowk, Hyderabad pursuant to the direction given by XVIth Metropolitan Magistrate, Hyderabad, before whom respondent No.2 had lodged the complaint and the appeal is liable to be dismissed. Ordered accordingly.

As a sequel to dismissal of the main appeal, W.A.M.P.No.2275 of 2006 filed by the appellants for staying further investigation is also dismissed.

G.S.SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

23.10.2006

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[1] AIR 1960 SC 866
[2] 1992 Supp (1) SCC 335
[3] (1980) 1 SCC 554
[4] (1982) 1 SCC 561
[5] (1992) Supp. 1 SCC 222
[6] (1996) 1 SCC 542
[7] (2002) 3 SCC 89
[8] (2002) 6 SCC 174
[9] (1988) 4 SCC 655
[10] (2005) 13 SCC 540